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12 **BEFORE THE ARIZONA CORPORATION COMMISSION**
13
14

15 TOM FORESE, Chairman
16 BOB BURNS
17 DOUG LITTLE
18 ANDY TOBIN
19 BOYD W. DUNN
20
21

22 IN THE MATTER OF THE APPLICATION OF
ARIZONA PUBLIC SERVICE COMPANY FOR
A HEARING TO DETERMINE THE FAIR
VALUE OF THE UTILITY PROPERTY OF THE
COMPANY FOR RATEMAKING PURPOSES,
TO FIX A JUST AND REASONABLE RATE OF
RETURN THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP SUCH
RETURN.

IN THE MATTER OF FUEL AND PURCHASED
POWER PROCUREMENT AUDITS FOR
ARIZONA PUBLIC SERVICE COMPANY.

Docket No. E-01345A-16-0036

Docket No. E-01345A-16-0123

**INITIAL BRIEF OF
THE SOUTHWEST ENERGY
EFFICIENCY PROJECT (SWEEP)**

Initial Post-Hearing Brief of SWEEP

Docket Nos. E-01345A-16-0036 and E-01345A-16-0123

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1 **I. INTRODUCTION**

2 As a party to the proceeding, SWEEP was provided with an opportunity to participate
3 in the settlement discussions, and SWEEP participated in the settlement discussions
4 throughout the process. SWEEP does not support the proposed Settlement Agreement
5 because it is not in the public interest, and SWEEP is not a Signing Party. (SWEEP-4, p. 2)

6 **II. FOUR PROVISIONS IN THE SETTLEMENT AGREEMENT ARE NOT IN**
7 **THE PUBLIC INTEREST**

8 While much of the proposed Settlement Agreement may be in the public interest, the
9 following four provisions are not in the public interest and do not result in just, fair, and
10 reasonable rates:

- 11 1. Large increases in mandatory fees in the form of high Basic Service Charges (BSC)
12 for residential and extra small/small general service customers, including 15%, 73%,
13 and 131% increases in fixed charges under the R-XS, R-Basic, and R-Basic Large
14 rates. (Sections 17.1 - 17.4, and Section XX.) The proposed increases in the BSCs
15 are not cost justified, reduce the amount of control customers have over their utility
16 bills, mute the price signal to customers to help them reduce their utility costs, and
17 impact some customers in uneven or unfair ways.
- 18 2. The poorly designed residential time-of-use (TOU) rates that have a long, five-hour
19 on-peak period (3:00 pm to 8:00 pm), which is a major burden for many customers,
20 including families and customers who must remain at home. (Section 17.8.)

21

- 1 3. Restrictions on customer choice and customer rate options, specifically the 90-day
2 waiting period before qualified new residential customers would be allowed to make
3 a customer choice to select the R-Basic two-part rate. (Section 19.1.)
- 4 4. The DSM unspent funds issue proposed to be addressed in the Settlement Agreement,
5 which is counter to prior Commission procedural direction, and which should be
6 addressed in the DSM Implementation Plan proceeding as the Commission directed
7 previously, with a fair opportunity for due process. (Section 4.2 under IV. Bill
8 Impacts.)

9 The above provisions of the Settlement Agreement should be modified in the manner
10 SWEEP describes prior to Commission approval of the Settlement Agreement. Only then
11 would the Settlement Agreement be in the public interest. (SWEEP-4, p. 2)

12 **III. THE COMMISSION SHOULD MODIFY THE SETTLEMENT AGREEMENT**
13 **AS PROPOSED BY SWEEP IN ORDER FOR THE AGREEMENT TO BE IN**
14 **THE PUBLIC INTEREST**

15 SWEEP recommends the Commission modify the proposed Settlement Agreement in
16 the following manner in order for any Commission-approved Settlement Agreement to be in
17 the public interest, and in order for the Agreement to result in just, fair, and reasonable rates
18 (SWEEP-4, p. 3):

- 19 1. Set the Basic Service Charges (BSCs) for residential, extra small general service, and
20 small general service customers as follows:

- 1 a. Set the residential BSCs using the Basic Service Method, which results in a
2 residential BSC of \$7.97 (or round to \$8.00) as calculated by SWEEP, including
3 for the R-XS, R-Basic, R-Basic Large, and TOU-E rates.
- 4 b. Should the Commission want to offer a financial incentive to encourage uptake of
5 the TOU-E rate through the level of the Basic Service Charge, it could set the R-
6 XS and TOU-E BSCs at \$7.97 (or round to \$8.00), consistent with the Basic
7 Service Method, and set the R-Basic and R-Basic Large BSCs higher at \$10 per
8 month.
- 9 c. Set the extra small general service and small general service BSCs using the Basic
10 Service Method, which results in a BSC of \$12.00 as calculated by SWEEP.
- 11 2. Set the on-peak period for residential time-of-use (TOU) rates to three hours, from
12 4:00 pm to 7:00 pm, rather than using the long, five-hour on-peak period (3:00 pm to
13 8:00 pm) in the Settlement Agreement, which is a major burden for many customers.
- 14 3. Eliminate the 90-day waiting period before qualified new residential customers would
15 be allowed to choose and select the R-Basic two-part rate.
- 16 4. Address the DSM unspent funds issue in the DSM Implementation Plan proceeding
17 as the Commission directed previously (Decision No. 75323), and not in the
18 Settlement Agreement. The Commission should review the DSM funding unspent
19 funds issue in the 2017 DSM Implementation Plan proceeding, which is expected to
20 be completed during 2017, in a proceeding with adequate due process and with a
21 focus on DSM issues. If the Commission so decides, any partial or full refund of the
22 DSM unspent funds could be provided to customers as a result of that DSM
23 proceeding, in a timely manner.

SWEEP discusses each of these issues and the proposed modifications below.

IV. THE LARGE INCREASES IN THE BASIC SERVICE CHARGES FOR RESIDENTIAL, EXTRA SMALL, AND SMALL GENERAL SERVICE CUSTOMERS ARE NOT IN THE PUBLIC INTEREST AND SHOULD NOT BE APPROVED. THE COMMISSION SHOULD MODIFY THE BASIC SERVICE CHARGES TO ENSURE JUST, FAIR, AND REASONABLE RATES.

In their testimony, APS and Staff (Miessner, Snook, and Smith) focused primarily on the overall rate increase, the size of the overall increase, and the bill impacts for an average or typical customer. SWEEP is not contesting the revenue requirement and therefore SWEEP is not contesting the size of the residential or extra small/small general service bill increases overall on average. (TR 1118:3-10 (Schlegel Test.))

SWEEP focused on the way the rate increase would be collected from customers as very large increases in fixed charges, which would result in the loss of customers' control over a significant portion of their utility bills, and the unfair, unjust, and unreasonable bill impacts that real customers with different usage levels would experience. (TR 1118:15-23 (Schlegel Test.))

The clear and unambiguous facts in the record are:

1. The proposed increases in the residential BSC are very large, including a 73% increase in the BSC for R-Basic customers (\$6.33 per month), a 131% increase for R-Basic-Large customers (\$11.33 per month), and a 15% increase for R-XS customers (\$1.33 per month). The BSC increases for extra small and small general service customers range from 45% to 73%.

1 2. These significant increases are in the fixed charge portion of the bill, which customers
2 have no control over. Therefore, the way the rate increase is collected from
3 customers results in customers losing control over more of their utility bill.

4 3. The increases in the BSC and the step increases in the residential BSCs (to \$10, \$15,
5 and \$20) cause unfair and unreasonable bill increases for some customers, as
6 demonstrated and documented in SWEEP's testimony and exhibits.

7 (TR 1118:24 – 1119:13 (Schlegel Test.))

8 **A. The Settlement-proposed increases in the BSCs for Residential, Extra Small General**
9 **Service, and Small General Service customers are not cost-based or cost-justified.**

10 **Only the SWEEP-proposed BSCs for these customers are cost-justified.**

11 Mr. Schlegel testified that the BSCs should be based on the Basic Service Method
12 (also known as the Basic Customer Method). This method includes only those costs that
13 vary based on the number of customers associated with meters, meter reading, billing, and
14 “customer service” (the cost of customer installation).¹ The Basic Service Method is the only
15 method for calculating the BSCs proposed in this case that determines the BSCs based on
16 cost causation and is equitable. (SWEEP-4, p. 7.)

17 In its BSC calculations, SWEEP used the same customer cost categories for the Basic
18 Service Method that Professor Bonbright,² who APS witness Snook also cited,
19 recommended:

20 “Mr. Schlegel also states that his proposal is consistent with Mr. Bonbright on this
21 topic, but Bonbright defines customer costs as:

¹ In this case, “customer service” refers to the cost of customer installation in FERC accounts 369 and 587.

² Bonbright, James C. 1961. *Principles of Public Utility Rates*. Columbia University Press. p. 347-349.

1 "...those operating and capital costs found to vary with the number of customers,
2 regardless, or almost regardless, of power consumption. Included as a minimum are
3 the costs of the drop wire, metering and billing, along with whatever other
4 nonrecoverable expenses the company must incur in taking on another consumer."
5 (Snook Rebuttal, p. 5, lines 2-7.)

6 Consistent with the Basic Service Method and Professor Bonbright's list of customer
7 costs that should be included in the BSC, which Snook also cited (ibid), SWEEP included
8 only those costs that "vary with the number of customers" and the costs of "taking on another
9 customer." Specifically, SWEEP included the costs of meters, meter reading, billing, and
10 customer service. (SWEEP-3, p. 5.)³

11 Mr. Schlegel testified that the BSCs should be based on cost causation. And he
12 testified that the BSC should contain the customer costs SWEEP included in its BSC
13 calculations, which are the same customer costs set forth by Bonbright. Contrary to the
14 assertions of APS witness Miessner (Miessner Rebuttal, p. 6, lines 16-19, and p. 7, lines 1-5),
15 which Miessner corrected during oral testimony (TR 392:4 - 393:23 (Miessner Test.)),
16 SWEEP included the cost of the meters and monthly metering costs in the calculation of the
17 BSC. Along with the meter and meter reading costs, SWEEP included the billing costs and
18 the customer service drop under "services" in SWEEP-4 Attachment JAS-1SR – consistent
19 with Bonbright's principles, which were also cited by Snook. (TR 1121:20 - 1125:5
20 (Schlegel Test.))

21 In his oral rejoinder testimony, Mr. Schlegel documented the customer costs that are
22 included in the SWEEP BSC calculations for SWEEP-4 Attachment JAS-1SR, based on the

³ SWEEP also calculated a BSC of \$12 per month for extra small and small general service customers in SWEEP-4, p. 7-9.

1 FERC accounts and account numbers used by SWEEP that are fully consistent with the
2 Uniform System of Accounts Prescribed for Public Utilities, as published in the Code of
3 Federal regulations (SWEEP-5). (TR 1125:5 - 1128:13 (Schlegel Test.)) In its calculation of
4 the BSCs, SWEEP summed the customer costs contained in each of the FERC accounts for
5 meters, meter reading, billing, and customer services, and including costs for the appropriate
6 accounts for plant and expenses. (TR 1126:25 - 1128:3 (Schlegel Test.)) The end result of the
7 SWEEP analysis is an objective and evidence-based, bottom-up summation of the
8 appropriate customer costs as the basis for the BSCs. (TR 1128:4-13 (Schlegel Test.))

9 Therefore, the SWEEP BSC calculations are based on customer costs, using the
10 correct method and the correct customer-related costs – i.e., the costs of meters, meter
11 reading, billing, and customer service – and using the dollar amounts in APS accounts
12 consistent with the FERC accounts and the standard federal system of accounting for utility
13 costs. (TR 1124:4 - 1128:3 (Schlegel Test.))

14 In contrast, the proposed increased BSCs in the Settlement Agreement are not based
15 on cost causation or on the appropriate customer costs. APS included some distribution costs
16 and some costs that are not customer-related in its BSC calculations. (APS 32; SWEEP-3, p.
17 6.) Snook also asserted that it was not unreasonable to include the costs of “transformers
18 near the customer’s home” in the BSC. (Snook Rebuttal, p. 5, lines 9-11.) Transformer size
19 and the number of transformers are both based on load – and not on the number of customers.
20 For example, consider a small apartment vs. a 10,000 SF home with three central air
21 conditioners. Both consist of one residential customer, but the load (and transformer need
22 and associated costs) will vary significantly, based on the load and not the number of
23 customers. (TR 1123:1-17 (Schlegel Test.)) Also, Miessner noted that the purpose of the

1 BSC for some parties was to reflect the “fixed costs” of service. (TR 341:23-25 (Miessner
2 Test.)) The larger category of “fixed costs” should not be included in “customer costs” or as
3 costs that “vary with the number of customers” used to determine the BSC. (TR 1122:20 -
4 1123:10 (Schlegel Test.)) Finally, as acknowledged by APS, the BSCs are not cost-based or
5 cost-justified because they are settlement values that “were derived through compromise.”
6 (Miessner Rebuttal, p. 7, line 22.)

7 Therefore, the Settlement-proposed increases in the BSCs for residential, extra small
8 general service, and small general service customers are not cost-based or cost-justified.
9 Only the SWEEP-proposed BSCs for these customers are cost-justified.

10 **B. The proposed increases in the BSCs reduce the amount of control customers have**
11 **over their utility bills, and mute the price signal to customers to help them reduce**
12 **their utility costs.**

13 Much of the rate increase for some customers is in the BSC, as a fixed charge.
14 Customers first receive a significant rate increase, and then experience all or most of the
15 increase as an increase in the fixed charge, with no ability to control that (now larger) portion
16 of their bill – which is a double whammy for customers. (SWEEP-4, p. 10, line 41 to p. 11,
17 line 2.)

18 The analysis in SWEEP-6 shows that the Settlement-proposed BSC increases can
19 comprise 40%-150% or more of the total bill increase, thereby leaving a customer with a
20 large fixed charge increase and no meaningful opportunity to mitigate the effect of the bill
21 increase. (SWEEP-6 corrected.) For example, consider a customer on the R-Basic rate with a
22 summer bill of 700 kWh per month. This customer’s summer bill increases \$4.08 per month,
23 but the BSC increase is \$6.33 per month – more than the total bill increase (155% of the total

1 increase). (SWEEP-6 corrected.) This customer is losing control over a larger portion of
2 their bill. Another example is a customer using 800 kWh per month in the summer, whose
3 bill increases \$1.40 per month, but the BSC increase is \$6.33 per month. (SWEEP-6
4 corrected.)

5 Under the Settlement Agreement, the increases in the BSCs result in customers
6 having less control over their utility bills and less opportunity to mitigate the effects of the
7 rate increase. (SWEEP-4, p. 10, lines 42-43.)

8 **C. The proposed increases in the BSCs result in higher bill impacts and in uneven or**
9 **unfair bill impacts for some customers.**

10 In his oral testimony and SWEEP-6, Mr. Schlegel provided examples of the bill
11 impacts for two residential customers. (TR 1119:14 - 1121:11 and TR 1128:14 - 1135:2
12 (Schlegel Test.))

13 One example is a residential customer on the R-Basic rate using 600 kWh per month
14 on average annually, or 700 kWh per month in the summer and 500 kWh per month in the
15 winter. This customer would face the following increases and bill impacts:

- 16 • In summer bills, a \$4 per month increase (a 4% bill increase) with an \$6.33 per month
17 increase in their BSC, which is 155% of the total bill increase. Over 150% of the
18 total bill increase is in the BSC, as a fixed charge that the customer cannot do
19 anything about, since there is no way to mitigate the rate increase through a change
20 (reduction) in energy usage.
- 21 • In winter bills, a \$13 per month increase (a 22% bill increase) with an \$6.33 per
22 month increase in their BSC, which is 47% of the total bill increase – or about half of

1 the large monthly bill increase in a fixed charge.

2 (TR 1120:16 - 1121:8 (Schlegel Test.))

3 Note that for half of the year this customer would be facing a \$13 per month increase
4 in their utility bill, which is a 22% bill increase. This is a very significant bill increase, with
5 an impact that is far higher than the average or typical residential bill impacts of 4.54% most
6 frequently communicated by APS.

7 A second example is the APS average-usage residential customer with annual usage
8 of 1,100 kWh per month. Under the Settlement Agreement, this average-usage customer
9 using 1,100 kWh per month annually, or about 1,400 kWh per month in the summer and 800
10 kWh per month in the winter, would be facing these bill impacts on the R-Basic Large rate:

- 11 • In summer bills, a \$9.50 per month decrease (a 4% bill decrease) with an \$11.33 per
12 month increase in their BSC.
- 13 • In winter bills, a \$31 per month increase (a 32% bill increase) with an \$11.33 per
14 month increase in their BSC, which is 36% of the total bill increase. A significant
15 portion of the very large monthly bill increase would be in a fixed charge.

16 (TR 1119:14 - 1120:15 (Schlegel Test.))

17 Note that for half of the year this customer would be facing a \$31 per month increase
18 in their utility bill, which is a 32% bill increase. This is also a very significant bill increase,
19 far higher than the 4.54% residential class average bill impacts, though on an annual basis it
20 would be partially offset by a smaller bill decrease in the summer (a summer decrease 1/3 the
21 size in dollars of the winter increase). (TR 1120:1-6 (Schlegel Test.))

1 In his oral testimony (TR 1132:21 - 1134:23 (Schlegel Test.)); SWEEP-6 corrected),
2 Mr. Schlegel reviewed the bill impacts analyzed and summarized in SWEEP-6, and
3 highlighted three observations:

- 4 1. The Settlement-proposed BSC increases comprise a significant portion of the total
5 bill increase, and sometimes more than the entire bill increase, thereby leaving
6 customers with large fixed charge increases, with less control over their utility bills,
7 and no meaningful opportunity to mitigate the effects of the bill increases (as
8 discussed in B above).
- 9 2. Within any one Settlement-proposed rate (or column in SWEEP-6), there are
10 significant differences in the \$ and % bill impacts for customers on that rate. And
11 customers at the lower end of the usage scale within each rate have a higher % bill
12 impact, for example, for R-XS, an 11% bill impact in summer and winter, and for R-
13 Basic, an 8% bill impact in the summer and 22% in the winter. Therefore, the lower
14 usage customers within any rate are bearing a larger relative share of the overall rate
15 increase.
- 16 3. There are significant differences in bill impacts if a customer changes their average
17 annual usage by as little as 1 kWh and therefore becomes covered under a different
18 rate. For example, a customer with an average annual usage of 600 kWh (700 kWh in
19 the summer and 500 kWh in the winter) would see a summer bill impact of -6%.
20 However, if that same customer then has an average annual usage of 601 kWh, just 1
21 kWh higher average annual usage, they would see a much higher % bill impact in the
22 summer, about 4% or higher. The result would be a change in summer bill impact of
23 -6% to 4% (or higher) due to only a 1 kWh change in average annual usage. For the

1 winter, the same customer would see the bill impacts increase from 8% to 22% for
2 just a 1 kWh increase in average annual usage. (SWEEP-6 corrected.)

3 These bill impacts resulting from the Settlement-proposed rates are unfair, unjust, and
4 unreasonable. The unfair effects and bill impacts are due partially to the Settlement-
5 proposed BSC increases and the lumpiness of the BSC step increases to \$10, \$15, and \$20.
6 (TR 1134:24 - 1135:2 (Schlegel Test.))

7 As shown in SWEEP-8A (Late File Exhibit), setting the residential BSC at \$7.97 per
8 month, as calculated by SWEEP, would eliminate or reduce the unfair effects of the
9 Settlement-proposed rates and higher BSCs on customers and the bill impacts. For example,
10 setting the BSC at \$7.97 would reduce the bill impacts for lower usage customers within any
11 rate (e.g., for lower usage R-XS customers, from 11% in summer or winter to 3% in summer
12 and 2% in winter, and for lower usage R-Basic customers, from 8% to 6% in summer, and
13 from 22% to 17% in winter). (SWEEP-8A.) Setting a lower BSC would also reduce the
14 significant differences in bill impacts if a customer changes their average annual usage by as
15 little as 1 kWh and therefore becomes covered under a different rate. (SWEEP-8A.)

16 Customers are not all typical or average customers. If the Settlement Agreement is
17 adopted as proposed, there will be significant bill increases and different bill impacts for
18 many customers. Too much of overall increase is in the fixed charge, which reduces the
19 customer's control over more of their bill, and reduces the opportunity for the customer to
20 mitigate the effect of that sizeable portion of the rate increase. And which results in unfair
21 and unreasonable bill impacts. It is crucial for the Commission to examine and consider the
22 range of significant bill impacts on real customers in its review of the Settlement Agreement.
23 (TR 1121:12-19 (Schlegel Test.))

D. APS customers should not be forced to pay higher BSCs than TEP customers

Contrary to Mr. Miessner's testimony (TR 342:16-18 (Miessner Test.)), the Settlement-proposed BSCs are not in the range consistent with the recent Commission decision for Tucson Electric Power (TEP). In fact, for TEP the Commission approved BSCs of \$10 for TOU and demand rates, and \$13 for the basic rate, which are lower than the proposed BSCs in the APS Settlement Agreement (\$13 for TOU and demand rates, and \$15 or \$20 for the R-Basic or R-Basic Large rates). There remains the reasonable question of why APS customers should be required to pay higher BSCs and higher fixed charges than TEP customers. (TR 1178:18-22 (Schlegel Test.))

V. THE RESIDENTIAL TOU RATES SHOULD HAVE A SHORTER ON-PEAK PERIOD THAT IS CUSTOMER-FRIENDLY AND EFFECTIVE

Properly designed and effective TOU rates should have lower BSCs and shorter on-peak windows that customers can actually work with as a better alternative than higher fixed charges for customers and higher BSCs in particular. (SWEEP-4, p. 11.)

Specifically, the residential TOU rates should have a shorter on-peak period (three hours) that is customer-friendly, meaning that more customers will be able to work with the on-peak period, rather than the five-hour on-peak period proposed in the Settlement Agreement. A five-hour (3:00 pm to 8:00 pm) on-peak period virtually mandates that Arizona families and other customers (e.g., homebound customers) will face high on-peak charges without any real flexibility to move some activities and energy use to off-peak periods. (SWEEP-4, p. 12.)

The Commission should modify the Settlement Agreement by setting the on-peak period to three hours, from 4:00 pm to 7:00 pm. This time period would be more attractive to

1 customers and more customers would be able to work with and manage their energy usage
2 during the peak periods – thereby resulting in less peak demand, a more effective rate design
3 overall, and more customers who are willing to work with APS to manage their demand and
4 energy use. (SWEEP-4, p. 12.)

5 The APS peak load shape figure (Miessner Rebuttal, Figure 1, p. 10) confirms that
6 the three summer hours with the highest peak demand are 4:00 PM to 7:00 PM. Specifically,
7 the load shape curve from 4:00 PM - 7:00 PM is the system peak and is on the 100% line,
8 meaning the red line overlaps 100%; the demand for 3:00 PM and after 7:00 PM are both
9 below the 100% line. (TR 1137:4-14 (Schlegel Test.))

10 Therefore, customers could shift some of their demand to hours before 4:00 PM and
11 not increase the APS system peak demand between 4:00 PM and 7:00 PM. For example, a
12 parent could meet their school children at home, throw in a load of laundry, and pre-make
13 dinner, without being penalized by an on-peak rate -- and still help reduce the true system
14 peak. Or someone who is homebound or who must otherwise stay at home could do some
15 pre-cooling before 4:00 PM to reduce their bill, and help to reduce the true system peak. (TR
16 1137:15 – 1138:4 (Schlegel Test.)) The shorter on-peak period would be attractive to more
17 customers, and additional customers would move to TOU rates. (TR 1138:5-17 (Schlegel
18 Test.))

19 **VI. THE 90-DAY WAITING PERIOD SHOULD BE ELIMINATED; IT IS AN**
20 **UNWARRANTED RESTRICTION ON CUSTOMER CHOICE AND**
21 **CUSTOMER RATE OPTIONS**

22 The Commission should modify the Settlement Agreement to eliminate all
23 restrictions on customer choice and customer options, including the 90-day waiting period.

1 All customers should be able to choose their rate from among the options they are eligible
2 for, and they should be able to do so on their first day as an APS customer. (SWEEP-4, p.
3 12.)

4 To make progress on effective rates, peak demand objectives, and controlling costs,
5 Arizona should be approaching all of its efforts from the perspective of the customer. APS
6 and other Arizona utilities should have more customer-friendly TOU rates, combined with
7 clear and useful information, and effective rate options to encourage customers to move to
8 TOU rates – and not mandate the rates upon customers. This is the appropriate next step in
9 the process. (SWEEP-4, p. 12.)

10 SWEEP believes it would be better for new customers and for APS to work with each
11 other and both start off their new relationship without limiting customer choice and customer
12 options. APS should use its outreach and education efforts, rate and bill examples, specific
13 bill comparisons for the property or similar properties, etc., to help customers make an
14 educated and appropriate choice. With APS providing all of the information and education
15 about the options, and answering the customer's questions – but then let the new customer
16 choose his/her rate. And without a 90-day waiting period. (TR 1138:9 – 1140:16 (Schlegel
17 Test.))

18 If the 90-day waiting period is retained, the Commission in its order should require
19 that APS notify customers of all rates available to the customer at the end of the 90-day
20 period. Available rate options should be disclosed to all eligible customers, as stated by
21 AARP.

22

**VII. THE DSM UNSPENT FUNDING ISSUE AND ANY REFUND SHOULD BE
ADDRESSED IN THE DSM IMPLEMENTATION PLAN PROCEEDING,
CONSISTENT WITH PRIOR COMMISSION DIRECTION AND WITH
APPROPRIATE DUE PROCESS**

In the recent past, APS proposed and has used the DSM unspent funding in order to provide stable funding for DSM and not increase the DSM surcharge. For example, in response to SWEEP 2.3, APS explained that it funded 2016 DSM programs by “collect[ing] approximately \$52.6M from the DSMAC and us[ing] approximately \$6.3M from the unallocated funds” (the DSM unspent funding). In 2015, APS used \$5.1 million in DSM unspent funds to make up a portion of the DSM budget as well. These uses of the DSM unspent funding in the 2015 and 2016 DSM Plans were fully consistent with what APS proposed, and the Commission approved this use of the DSM unspent funding twice, including most recently in Decision No. 75679. (SWEEP-4, p. 13.)

The DSM unspent funding has also supported Commissioner-identified DSM initiatives, including a \$2 million energy efficiency pilot program for schools in Decision No. 75323, and a \$4 million energy storage requirement and increased demand reductions goals established for APS in Decision No. 75679. (SWEEP-4, p. 13.)

The DSM unspent funds are needed to provide stable funding for DSM programs in 2017 and the immediate future as well. APS recently proposed, and the Commission approved, a flat energy savings goal for APS through 2020 and the use of the DSM funding over-collections “to smooth out the path to compliance... (and) allow APS to avoid large year-to-year budget variations in attaining the overall savings goal, which benefits all customers...” as set forth in the APS 2016 Amended DSM Plan, pages 2-3, and as approved

1 in Decision No. 75679. (SWEEP-4, p. 13.)

2 One SWEEP concern is that if the DSM unspent funds are not used to fund APS'
3 DSM programs, that APS will have insufficient funds to adequately support DSM programs
4 and customer projects. In fact, in April 2017, APS reduced custom incentive levels for its
5 commercial and industrial customers by 45%, and cut the incentives for customer studies by
6 50%, because it has insufficient DSM funds to meet customer demand, as described in the
7 APS Notice of Reduction to Measure Incentive Levels (April 6, 2017), and APS Clarification
8 of APS Notice of Reduction to Measure Incentive Levels (April 30, 2017), in Docket No. E-
9 01345A-16-0176. (SWEEP-4, p. 13-14.)

10 The reality is that for the third year in a row, the funding for the APS DSM budget, in
11 order to support the DSM programs and meet customer needs, is short of what is needed.
12 Therefore, APS could use some of the DSM unspent funding to make up the difference, as
13 APS did in 2015 and 2016, with Commission approval in both years. And this use of the
14 DSM unspent funds would be consistent with what APS proposed previously, and with what
15 the Commission approved twice previously. (TR 1141:11 -1142:23 (Schlegel Test.))

16 SWEEP recommends that the DSM unspent funding issue be addressed in the DSM
17 Implementation Plan proceeding, as recently directed by the Commission in Decision No.
18 75323 (SWEEP 3, p. 11), and should not be refunded in the APS rate case or used to mask
19 the impact of the rate increase on customers. The Commission should review the DSM
20 funding over-collections issue in the 2017 DSM Implementation Plan proceeding, which is
21 expected to be completed during 2017. And if the Commission so decides, any partial or full
22 refund of the DSM unspent funding could be provided to customers as a result of that DSM
23 proceeding, in a timely manner. (SWEEP-4, p. 14.)

1 If the Commission addresses the DSM unspent funds issue in the DSM
2 Implementation Plan proceeding, as the Commission directed previously and as SWEEP
3 recommends, that DSM proceeding would:

- 4 • Be properly noticed to customers and stakeholders. These same customers and
5 stakeholders would not have been aware that this issue was in the APS rate case and
6 now in the Settlement Agreement until the Settlement Term Sheet was filed on March
7 1, 2017, at the earliest. The DSM budget and funding issues are fully noticed in the
8 DSM Plans.
- 9 • Ensure appropriate due process, with customers and stakeholders having an
10 opportunity to participate and comment in the DSM Plan proceeding.
- 11 • Be directly relevant to the scope and focus of the DSM proceeding – on DSM matters
12 – which include DSM budgets and DSM funding.

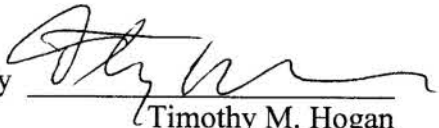
13 (TR 1143:9 -1144:10 (Schlegel Test.))

14 **VIII. CONCLUSION**

15 The four issues SWEEP raised in its testimony and in this brief could be addressed
16 and remedied in a fairly straightforward manner without significantly impacting other
17 provisions in the Settlement Agreement or in the supporting appendices and schedules. (TR
18 1145:22 -1146:2 (Schlegel Test.))

19 SWEEP recommends the Commission modify the proposed Settlement Agreement in
20 the manner described herein, in order for any Commission-approved Settlement Agreement
21 to be in the public interest, and in order for the Agreement to result in just, fair, and
22 reasonable rates.

1 DATED May 17, 2017

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16 the foregoing filed this 17th day
17 of May, 2017, with:

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25 COPIES of the foregoing
26 Electronically mailed this
27 17th day of May, 2017, to:

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29 All Parties of Record
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31 